

REMARKS

Claims 1-14 were pending when an Office Action was mailed on August 25, 2004. Claims 1-14 were rejected and Claim 2 was objected to because of informalities. The Office Action was not made final.

In view of the amendments and arguments set forth herein, Applicants respectfully submit that all claims pending in this patent application are in condition for allowance. Applicants very respectfully request entry of the Amendment, and reconsideration and allowance of all claims.

I. CLAIM OBJECTIONS

Claim 2 was objected to because of informalities. The Office Action stated that Claim 2 recites "the biasing device", which appears as if it is referring to the expansion device set forth in Claim 1. The Office Action stated that for clarity, the same terminology should be used to avoid confusion and required appropriate correction. Claim 2 has been amended herein to correct the informality noted in the Office Action. The Amendment to Claim 2 has not been made to narrow the claim and has not been made for a reason related to patentability.

Applicants have also made clarifying amendments to Claims 4, 7, 8, 13, and 14. The amendments to Claims 4, 7, 8, 13, and 14 have been made for clarification purposes only. The clarifying amendments to Claims 4, 7, 8, 13, and 14 have not been made to narrow the claims and have not been made for a reason related to patentability.

II. CLAIM REJECTIONS – 35 U.S.C. § 102

Claims 1-14 were rejected under 35 U.S.C. § 102(b) as being anticipated by US patent no. 5,338,130 to Baerveldt. The Office Action stated that, regarding Claim 1, Baerveldt discloses an expansion joint comprising: a first generally planar member seen as the bottom planar surface of sealing strip (S) in Figure 1, which was stated to be capable of being able to slide on a first portion of at least one section of a structure thereon; second and third generally planar members seen as retaining elements 2 in Figure 1, which were stated to be capable of being able to slide on a second

portion of at least one section of the structure thereon, these members being substantially co-planar with each other (as Figure 1 shows) and substantially parallel to the first member (referring again to Figure 1), the second and third members being vertically spaced-apart from the first member (referring to Figure 1); and an expansion device between the second and third members seen as the rest of the sealing strip S. Regarding Claim 11, the Office Action stated that Baerveldt discloses the limitations of the claimed invention as discussed in regards to Claim 1 and that the flexible sealing strip S can be viewed as an expansion spring. Applicants very respectfully traverse.

A. THE BAERVELDT REFERENCE

US patent no. 5,338,130 to Baerveldt discloses an extruded thermoplastic elastomer expansion joint. Referring to Figure 1 of Baerveldt, the invention of Baerveldt is a nosing (that is, an expansion joint retainer) for a flexible expansion joint for spanning the gap between adjacent slabs of, for instance, a parking deck or bridge deck. A joint utilizing the invention of Baerveldt includes a flexible strip seal S. Baerveldt, column 2, lines 39-43. The slabs adjacent the joint along the edges have a rectangular groove formed therein. The sealing strip S is laid on the lowermost surface of the groove, and may be additionally fastened thereto with an adhesive. *Id.*, column 2, lines 49-53.

At regular intervals in each groove are positioned anchor bolts B, or threaded bolts, embedded into the slab in the groove. The anchor bolts extend through apertures in the strip seal S and similar apertures in the nosings. *Id.*, column 2, lines 54-58.

Each nosing is dimensioned to fit in a typically dimensioned groove in the slab. Each nosing is manufactured as a co-extrusion of a main body element 1 and a retaining element 2. *Id.*, column 2, lines 59-64.

The anchor bolt B extends through pre-drilled holes in the retaining element. Above such pre-drilled holes, the material of the main element 1 is bored away to permit emplacement and tightening of a washer and a nut on the anchor bolt B. *Id.*, column 3, lines 5-9.

Thus, it is noted that a center portion of the flexible strip seal S is interposed between the two (unlabeled) slabs, and overhanging portions of the flexible strip seal S are received on top of the unlabeled slabs. It is also noted that the nosings, (that is, the expansion joint retainers made up of the main body element 1 and the retaining element 2) are received on top of the overhanging portions of the flexible strip seal S (that are in turn received on top of the unlabeled slabs). Further, it is also noted that the top surface of the main body element 1 is higher than a top surface of the portion of the flexible strip seal S that is interposed between the unlabeled slabs (even in the embodiment illustrated in Figure 6, in which the portion of the main body element 1 remote from the joint gap is eliminated). Finally, it is noted that the unlabeled slab, the overhanging portion of the flexible strip seal S, and the retaining element 2 of the nosing (that is, expansion joint retainer) are all fastened together with the anchor bolt B. As such, the nosings are received on the unlabeled slabs and the flexible strip seal S is attached directly to the unlabeled slabs.

B. CLAIMS 1-14 ARE NOT ANTICIPATED BY THE BAERVELDT REFERENCE

Applicants very respectfully submit that Claims 1-14 are not anticipated by Baerveldt. As will be discussed below, Applicants respectfully submit that Baerveldt neither teaches nor suggests all of the claim limitations recited in Claims 1-14. Specifically, Baerveldt teaches that the top surface of the main body element 1 is higher than a top surface of the portion of the flexible strip seal S that is interposed between the unlabeled slabs, the nosings are received on the unlabeled slabs, and the flexible strip seal S is attached directly to the unlabeled slabs. The shortcomings of each of these teachings of Baerveldt with respect to the rejected Claims will be discussed in turn.

As discussed above, Baerveldt teaches that the top surface of the main body element 1 is higher than a top surface of the portion of the flexible strip seal S that is interposed between the unlabeled slabs. Therefore, the top surface of this portion of the flexible strip seal S cannot receive any sections of the structure thereon. Instead, any sections of the structure will be received on the main body element 1 of the nosing. To the contrary, a first generally planar member is configured to "slidably support a first portion of at least one section of a structure thereon" as recited in Claim 1, as amended, and a first generally planar member is configured to "slidably receive first portions

of adjacent composite sections of a structure thereon" as recited in Claim 11, as amended. Therefore, Baerveldt cannot and does not teach or suggest a first generally planar member that is configured to "slidably support a first portion of at least one section of a structure thereon" as recited in Claim 1, as amended, or a first generally planar member that is configured to "slidably receive first portions of adjacent composite sections of a structure thereon" as recited in Claim 11, as amended.

As also discussed above, Baerveldt teaches that the *nosings* (made up of the main body element 1 and the retaining element 2) are *received on* the unlabeled *slabs*. To the contrary, second and third generally planar members are "attachable to a second portion of the at least one section of the structure *receivable thereon*" as recited in Claim 1, as amended, and second and third generally planar members are "attachable to second portions of the adjacent sections of the structure *receivable thereon*" as recited in Claim 11, as amended. Therefore, Baerveldt does not teach or suggest, but rather teaches away from, second and third generally planar members that are "attachable to a second portion of the at least one section of the structure *receivable thereon*" as recited in Claim 1, as amended, and second and third generally planar members that are "attachable to second portions of the adjacent sections of the structure *receivable thereon*" as recited in Claim 11, as amended.

Further, as discussed above, Baerveldt teaches that the overhanging portions of the flexible strip seal S are attached directly to the unlabeled slabs. Baerveldt makes no mention whatsoever of attaching any part of the portion of the flexible strip seal that is interposed the unlabeled slabs to anything at all. To the contrary, an expansion device that is interposed between the second and third members is "attachable to a support member that supports the at least one section of the structure thereon" as recited in Claim 1, as amended, and an expansion spring that is interposed between the second and third members defines a hole "for receiving a fastener therein for attaching the expansion spring to a support member that supports the adjacent sections of the structure thereon" as recited in Claim 11, as amended. Because Baerveldt teaches that the overhanging portions of the flexible strip seal S are attached directly to the unlabeled slabs, Baerveldt does not teach or suggest an expansion device that is interposed between the second and

third members and that is “attachable to a support member that supports the at least one section of the structure thereon” as recited in Claim 1, as amended, or an expansion spring that is interposed between the second and third members and that defines a hole “for receiving a fastener therein for attaching the expansion spring to a support member that supports the adjacent sections of the structure thereon” as recited in Claim 11, as amended.

Because Baerveldt neither teaches nor suggests all of the claim limitations of Claims 1 and 11, as amended, as discussed above, Applicants very respectfully submit that Claims 1 and 11 are not anticipated by Baerveldt and are in condition for allowance. Applicants very respectfully request entry of the amendment, and reconsideration and allowance of Claims 1 and 11.

Claims 2-10 depend from Claim 1 and Claims 12-14 depend from Claim 11. By virtue of their dependency and for other reasons, Applicants respectfully submit that Claims 2-10 and 12-14 are not anticipated by Baerveldt and are in condition for allowance. Applicants respectfully request entry of the amendment, and reconsideration and allowance of Claims 2-10 and 12-14.

III. CONCLUSION

In view of the above amendments and arguments, Applicants very respectfully submit that all Claims pending in this application are in condition for allowance. Applicants respectfully submit that the objection to Claim 2 has been overcome. Applicants also respectfully submit that Claims 1-14 are not anticipated by Baerveldt and are in condition for allowance. Applicants very respectfully request entry of the Amendment, and reconsideration and allowance of Claims 1-14.

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Respectfully submitted,

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